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SUBCHAPTER A. DUTIES PERFORMED BY JUSTICES OF THE PEACE

Art. 49.01. Definitions

In this article:

- (1) "Autopsy" means a post mortem examination of the body of a person, including X-rays and an examination of the internal organs and structures after dissection, to determine the cause of death or the nature of any pathological changes that may have contributed to the death.
- (2) "Inquest" means an investigation into the cause and circumstances of the death of a person, and a determination, made with or without a formal court hearing, as to whether the death was caused by an unlawful act or omission.
- (3) "Inquest hearing" means a formal court hearing held to determine whether the death of a person was caused by an unlawful act or omission and, if the death was caused by an unlawful act or omission, to obtain evidence to form the basis of a criminal prosecution.
- (4) "Institution" means any place where health care services are rendered, including a hospital, clinic, health facility, nursing home, extended-care facility, out-patient facility, foster-care facility, and retirement home.
- (5) "Physician" means a practicing doctor of medicine or doctor of osteopathic medicine who is licensed by the Texas State Board of Medical Examiners under Subtitle B, Title 3, Occupations Code.

Art. 49.02. Applicability

This subchapter applies to the inquest into a death occurring in a county that does not have a medical examiner's office or that is not part of a medical examiner's district.

Art. 49.03. Powers and Duties

The powers granted and duties imposed on a justice of the peace under this article are independent of the powers and duties of a law enforcement agency investigating a death.

Art. 49.04. Deaths Requiring an Inquest

- (a) A justice of the peace shall conduct an inquest into the death of a person who dies in the county served by the justice if:
 - (1) the person dies in prison under circumstances other than those described by Section 501.055(b), Government Code, or in jail;
 - (2) the person dies an unnatural death from a cause other than a legal execution;
 - (3) the body or a body part of a person is found, the cause or circumstances of death are unknown, and:
 - (A) the person is identified; or
 - (B) the person is unidentified;
 - (4) the circumstances of the death indicate that the death may have been caused by unlawful means;
 - (5) the person commits suicide or the circumstances of the death indicate that the death may have been caused by suicide;
 - (6) the person dies without having been attended by a physician;

- (7) the person dies while attended by a physician who is unable to certify the cause of death and who requests the justice of the peace to conduct an inquest; or
 - (8) the person is a child younger than six years of age and an inquest is required by Chapter 264, Family Code.
- (b) Except as provided by Subsection (c) of this section, a physician who attends the death of a person and who is unable to certify the cause of death shall report the death to the justice of the peace of the precinct where the death occurred and request that the justice conduct an inquest.
 - (c) If a person dies in a hospital or other institution and an attending physician is unable to certify the cause of death, the superintendent or general manager of the hospital or institution shall report the death to the justice of the peace of the precinct where the hospital or institution is located.
 - (d) A justice of the peace investigating a death described by Subsection (a)(3)(B) shall report the death to the missing children and missing persons information clearinghouse of the Department of Public Safety and the national crime information center not later than the 10th working day after the date the investigation began.

Art. 49.041. Reopening an Inquest

A justice of the peace may reopen an inquest if, based on information provided by a credible person or facts within the knowledge of the justice of the peace, the justice of the peace determines that reopening the inquest may reveal a different cause or different circumstances of death.

Art. 49.05. Time and Place of Inquest; Removal of Property and Body From Place of Death

- (a) A justice of the peace shall conduct an inquest immediately or as soon as practicable after the justice receives notification of the death.
- (b) A justice of the peace may conduct an inquest:
 - (1) at the place where the death occurred;
 - (2) where the body was found; or
 - (3) at any other place determined to be reasonable by the justice.
- (c) A justice of the peace may direct the removal of a body from the scene of death or move any part of the physical surroundings of a body only after a law enforcement agency is notified of the death and a peace officer has conducted an investigation or, if a law enforcement agency has not begun an investigation, a reasonable time has elapsed from the time the law enforcement agency was notified.
- (d) A law enforcement agency that is notified of a death requiring an inquest under Article 49.04 of this code shall begin its investigation immediately or as soon as practicable after the law enforcement agency receives notification of the death.
- (e) Except in emergency circumstances, a peace officer or other person conducting a death investigation for a law enforcement agency may not move the body or any part of the physical surroundings of the place of death without authorization from a justice of the peace.
- (f) A person not authorized by law to move the body of a decedent or any part of the physical surroundings of the body commits an offense if the person tampers with a body that is subject to an inquest under Article 49.04 of this code or any part of the physical surroundings of the body. An offense under this section is punishable by a fine in an amount not to exceed \$500.

Art. 49.06. Hindering an Inquest

- (a) A person commits an offense if the person intentionally or knowingly hinders the entrance of a justice of the peace to a premises where a death occurred or a body is found.
- (b) An offense under this article is a Class B misdemeanor.

Art. 49.07. Notification of Investigating Official

- (a) A physician or other person who has possession of a body or body part of a person whose death requires an inquest under Article 49.04 of this code shall immediately notify the justice of the peace who serves the precinct in which the body or body part was found.
- (b) A peace officer who has been notified of the death of a person whose death requires an inquest under Article 49.04 of this code shall immediately notify the justice of the peace who serves the precinct in which the body or body part was found.
- (c)
 - (1) If the justice of the peace who serves the precinct in which the body or body part was found is not available to conduct an inquest, a person required to give notice under this article shall notify the nearest available justice of the peace serving the county in which the body or body part was found, and that justice of the peace shall conduct the inquest.
 - (2) If no justice of the peace serving the county in which the body or body part was found is available to conduct an inquest, a person required to give notice under this article shall notify the county judge, and the county judge shall initiate the inquest. The county judge may exercise any power and perform any duty otherwise granted to or imposed under this subchapter on the justice of the peace serving the county in which the body or body part was found, except that not later than the fifth day after the day on which the inquest is initiated, the county judge shall transfer all information obtained by the judge to the justice of the peace in whose precinct the body or body part was found for final disposition of the matter.
- (d) A person commits an offense if the person is required by this article to give notice and intentionally or knowingly fails to give the notice. An offense under this subsection is a Class C misdemeanor.

Art. 49.08. Information Leading to an Inquest

A justice of the peace conducting an inquest may act on information the justice receives from any credible person or on facts within his knowledge.

Art. 49.09. Body Disinterred or Cremated

- (a) If a body or body part subject to investigation under Article 49.04 of this code is interred and an authorized person has not conducted an inquest required under this subchapter, a justice of the peace may direct the disinterment of the body or body part in order to conduct an inquest.
- (b) A person may not cremate or direct the cremation of a body subject to investigation under Article 49.04 unless the body is identified and the person has received from the justice of the peace a certificate signed by the justice stating that:
 - (1) an autopsy was performed on the body under Article 49.10 of this code; or
 - (2) no autopsy was necessary.

- (c) An owner or operator of a crematory shall retain a certificate received under Subsection (b) of this article for a period of 10 years from the date of cremation of the body named on the certificate.
- (d) A person commits an offense if the person cremates or directs the cremation of a body without obtaining a certificate from a justice of the peace as required by Subsection (b) of this article. An offense under this section is a Class B misdemeanor.
- (e) If the body of a deceased person is unidentified, a person may not cremate or direct the cremation of the body under this article. If the body is buried, the justice of the peace shall record and maintain for not less than 10 years all information pertaining to the body and the location of burial.

Art. 49.10. Autopsies and Tests

- (a) At his discretion, a justice of the peace may obtain the opinion of a county health officer or a physician concerning the necessity of obtaining an autopsy in order to determine or confirm the nature and cause of a death.
- (b) The commissioners court of the county shall pay a reasonable fee for a consultation obtained by a justice of the peace under Subsection (a) of this article.
- (c) Except as required by Section 264.514, Family Code, for each body that is the subject of an inquest by a justice of the peace, the justice, in the justice's discretion, shall:
 - (1) direct a physician to perform an autopsy; or
 - (2) certify that no autopsy is necessary.
- (d) A justice of the peace may not order a person to perform an autopsy on the body of a deceased person whose death was caused by Asiatic cholera, bubonic plague, typhus fever, or smallpox. A justice of the peace may not order a person to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.
- (e) A justice of the peace shall order an autopsy performed on a body if:
 - (1) the justice determines that an autopsy is necessary to determine or confirm the nature and cause of death;
 - (2) the deceased was a child younger than six years of age and the death is determined under Section 264.514, Family Code, to be unexpected or the result of abuse or neglect; or
 - (3) directed to do so by the district attorney, criminal district attorney, or, if there is no district or criminal district attorney, the county attorney.
- (f) A justice of the peace shall request a physician to perform the autopsy.
- (g) The commissioners court shall pay a reasonable fee to a physician performing an autopsy on the order of a justice of the peace, if a fee is assessed.
- (h) The commissioners court shall pay a reasonable fee for the transportation of a body to a place where an autopsy can be performed under this article if a justice of the peace orders the body to be transported to the place.
- (i) If a justice of the peace determines that a complete autopsy is unnecessary to confirm or determine the cause of death, the justice may order a physician to take or remove from a body a sample of body fluids, tissues, or organs in order to determine the nature and cause of death. Except as provided by Subsection (j) of this article, a justice may not order any person other than a physician to take samples from the body of a deceased person.
- (j) A justice of the peace may order a physician, qualified technician, paramedic, chemist, registered professional nurse, or licensed vocational nurse to take a specimen of blood from the body of a person who died as the result of a motor vehicle accident if the justice determines that circumstances indicate that the person may have been driving while intoxicated.

- (k) A justice of the peace may order an investigative or laboratory test to determine the identity of a deceased person. After proper removal of a sample from a body, a justice may order any person specially trained in identification work to complete any tests necessary to determine the identity of the deceased person.
- (l) A medical examination on an unidentified person shall include the following information to enable a timely and accurate identification of the person:
 - (1) all available fingerprints and palm prints;
 - (2) dental charts and radiographs (X-rays) of the person's teeth;
 - (3) frontal and lateral facial photographs with scale indicated;
 - (4) notation and photographs, with scale indicated, of a significant scar, mark, tattoo, or item of clothing or other personal effect found with or near the body;
 - (5) notation of antemortem medical conditions;
 - (6) notation of observations pertinent to the estimation of time of death; and
 - (7) precise documentation of the location of burial of the remains.
- (m) A medical examination on an unidentified person may include the following information to enable a timely and accurate identification of the person:
 - (1) full body radiographs (X-rays); and
 - (2) hair specimens with roots.
- (n) On discovering the body or body part of a deceased person in the circumstances described by Article 49.04(a)(3)(B), the justice of the peace may request the aid of a forensic anthropologist in the examination of the body or body part. The forensic anthropologist must hold a doctoral degree in anthropology with an emphasis in physical anthropology. The forensic anthropologist shall attempt to establish whether the body or body part is of a human or animal, whether evidence of childbirth, injury, or disease exists, and the sex, race, age, stature, and physical anomalies of the body or body part. The forensic anthropologist may also attempt to establish the cause, manner, and time of death.
- (o) If a person is injured in one county and dies as a result of those injuries, with the death occurring in another county, the attorney representing the state in the prosecution of felonies in the county in which the injury occurred may request a justice of the peace in the county in which the death occurred to order an autopsy be performed on the body of the deceased person. If the justice of the peace orders that the autopsy be performed, the county in which the injury occurred shall reimburse the county in which the death occurred.

Art. 49.11. Chemical Analysis

- (a) A justice of the peace may obtain a chemical analysis of a sample taken from a body in order to determine whether death was caused, in whole or in part, by the ingestion, injection, or introduction into the body of a poison or other chemical substance. A justice may obtain a chemical analysis under this article from a chemist, toxicologist, pathologist, or other medical expert.
- (b) A justice of the peace shall obtain a chemical analysis under Subsection (a) of this article if requested to do so by the physician who performed an autopsy on the body.
- (c) The commissioners court shall pay a reasonable fee to a person who conducts a chemical analysis at the request of a justice of the peace.

Art. 49.12. Liability of Person Performing Autopsy or Test

A person who performs an autopsy or makes a test on a body on the order of a justice of the peace in the good faith belief that the order is valid is not liable for damages if the order is invalid.

Art. 49.13. Consent to Autopsy

- (a) Consent for a physician to conduct an autopsy is sufficient if given by the following:
 - (1) if the deceased was married, the surviving spouse;
 - (2) if the deceased was married but not survived by a spouse, an adult child of the deceased;
 - (3) if the deceased was married but not survived by a spouse, and a child of the deceased is under the care of a guardian or a court, the guardian or court having care of the child; or
 - (4) if the deceased person was unmarried or is not survived by a spouse or a child, the following persons in the order stated:
 - (A) a parent;
 - (B) a guardian;
 - (C) the next of kin; or
 - (D) any person who assumes custody of and responsibility for the burial of the body.
- (b) Notwithstanding Subsection (a), consent for a physician to conduct an autopsy is sufficient if given by the Texas Department of Criminal Justice or an authorized official of the department in accordance with Section 501.055, Government Code.

Art. 49.14. Inquest Hearing

- (a) A justice of the peace conducting an inquest may hold an inquest hearing if the justice determines that the circumstances warrant the hearing. The justice shall hold an inquest hearing if requested to do so by a district attorney or a criminal district attorney who serves the county in which the body was found.
- (b) An inquest hearing may be held with or without a jury unless the district attorney or criminal district attorney requests that the hearing be held with a jury.
- (c) A jury in an inquest hearing is composed of six persons. Jurors shall be summoned in the same manner as are jurors for county court. A juror who is properly summoned and fails to appear, other than a juror exempted by law, commits an offense. An offense under this subsection is punishable by a fine not to exceed \$100.
- (d) A justice of the peace may hold a public or a private inquest hearing. If a person has been arrested and charged with causing the death of the deceased, the defendant and the defendant's counsel are entitled to be present at the inquest hearing, examine witnesses, and introduce evidence.
- (e) A justice of the peace may issue a subpoena to enforce the attendance of a witness at an inquest hearing and may issue an attachment for a person who is subpoenaed and fails to appear at the time and place cited on the subpoena.
- (f) A justice of the peace may require bail of a witness to secure the appearance of the witness at an inquest hearing or before a grand jury, examining court, or other court investigating a death.
- (g) The justice of the peace shall swear witnesses appearing at an inquest hearing. The justice and an attorney representing the state may examine witnesses at an inquest hearing. The justice shall direct that all sworn testimony be reduced to writing and the justice shall subscribe the transcription.
- (h) Only the justice of the peace, a person charged in the death under investigation, the counsel for the person charged, and an attorney representing the state may question a witness at an inquest hearing.
- (i) A justice of the peace may hold a person who disrupts the proceedings of an inquest hearing in contempt of court. A person who is found in contempt of court under this subsection may be fined in an amount not to exceed \$100 and removed from court by a peace officer.

Art. 49.15. Inquest Record

- (a) A justice of the peace or other person authorized under this subchapter to conduct an inquest shall make an inquest record for each inquest he conducts. The inquest record must include a report of the events, proceedings, findings, and conclusions of the inquest. The record must also include any autopsy prepared in the case and all other papers of the case. All papers of the inquest record must be marked with the case number and be clearly indexed and be maintained in the office of the justice of the peace and be made available to the appropriate officials upon request.
- (b) As part of the inquest record, the justice of the peace shall make and keep complete and permanent records of all inquest hearings. The inquest hearing records must include:
 - (1) the name of the deceased person or, if the person is unidentified, a description of the body;
 - (2) the time, date, and place where the body was found;
 - (3) the time, date, and place where the inquest was held;
 - (4) the name of every witness who testified at the inquest;
 - (5) the name of every person who provided to the justice information pertinent to the inquest;
 - (6) the amount of bail set for each witness and person charged in the death;
 - (7) a transcript of the testimony given by each witness at the inquest hearing;
 - (8) the autopsy report, if an autopsy was performed; and
 - (9) the name of every person arrested as a suspect in the death who appeared at the inquest and the details of that person's arrest.
- (c) The commissioners court shall pay a reasonable fee to a person who records or transcribes sworn testimony during an inquest hearing.
- (d) The justice of the peace shall certify a copy of the inquest summary report and deliver the certified copy in a sealed envelope to the clerk of the district court. The clerk of the district court shall retain the summary report subject to an order by the district court.

Art. 49.16. Orders and Death Certificates

The justice of the peace or other person who conducts an inquest under this subchapter shall sign the death certificate and all orders made as a necessary part of the inquest.

Art. 49.17. Evidence

A justice of the peace shall preserve all tangible evidence that the justice accumulates in the course of an inquest that tends to show the real cause of death or identify the person who caused the death. The justice shall:

- (1) deposit the evidence with the appropriate law enforcement agency to be stored in the agency's property room for safekeeping; or
- (2) deliver the evidence to the district clerk for safekeeping subject to the order of the court.

Art. 49.18. Death in Custody

- (a) If a person confined in a penal institution dies, the sheriff or other person in charge of the penal institution shall as soon as practicable inform the justice of the peace of the precinct where the penal institution is located of the death.
- (b) If a person dies while in the custody of a peace officer or as a result of a peace officer's use of force or if a person incarcerated in a jail, correctional facility, or state juvenile facility dies, the director of the law enforcement agency of which the officer is a member or of the facility in which the person was incarcerated shall investigate the death and file a written report of the cause of death with the attorney general no later than the 30th day after the date on which the person in custody or the incarcerated person died. The director shall make a good faith effort to obtain all facts relevant to the death and include those facts in the report. The attorney general shall make the report, with the exception of any portion of the report that the attorney general determines is privileged, available to any interested person.
- (c) Subsection (a) does not apply to a death that occurs in a facility operated by or under contract with the Texas Department of Criminal Justice. Subsection (b) does not apply to a death that occurs in a facility operated by or under contract with the Texas Department of Criminal Justice if the death occurs under circumstances described by Section 501.055(b)(2), Government Code.
- (d) In this article:
 - (1) "Correctional facility" means a confinement facility or halfway house operated by or under contract with any division of the Texas Department of Criminal Justice.
 - (2) "In the custody of a peace officer" means:
 - (A) under arrest by a peace officer; or
 - (B) under the physical control or restraint of a peace officer.
 - (3) "State juvenile facility" means any facility or halfway house:
 - (A) operated by or under contract with the Texas Youth Commission; or
 - (B) described by Section 51.02(13) or (14), Family Code.

Art. 49.19. Warrant of Arrest

- (a) A justice of the peace who is conducting an inquest of a death under this subchapter may issue a warrant for the arrest of a person suspected of causing the death if:
 - (1) the justice has knowledge that the person caused the death of the deceased;
 - (2) the justice receives an affidavit stating that the person caused the death; or
 - (3) evidence is adduced at an inquest hearing that shows probable cause to believe the person caused the death.
- (b) A peace officer who receives an arrest warrant issued by a justice of the peace shall:
 - (1) execute the warrant without delay; and
 - (2) detain the person arrested until the person's discharge is ordered by the justice of the peace or other proper authority.
- (c) A person who is charged in a death and arrested under a warrant of a justice of the peace shall remain in the custody of the arresting peace officer and may not be removed from the peace officer's custody on the authority of a warrant from another magistrate. A person charged in a death who has not been arrested under a warrant of a justice of the peace may be arrested on the order of a magistrate other than the justice of the peace and examined by that magistrate while an inquest is pending.

Art. 49.20. Requisites of Warrant

A warrant of arrest issued under Article 49.19 of this code is sufficient if it:

- (1) is issued in the name of "The State of Texas";
- (2) specifies the name of the person whose arrest is ordered or, if the person's name is unknown, reasonably describes the person;
- (3) recites in plain language the offense with which the person is charged; and
- (4) is signed and dated by a justice of the peace.

Art. 49.21. Commitment of Homicide Suspect

At the conclusion of an inquest, if a justice of the peace finds that a person who has been arrested in the case caused or contributed to the death of the deceased, the justice may:

- (1) commit the person to jail; or
- (2) require the person to execute a bail bond with security for the person's appearance before the proper court to answer for the offense.

Art. 49.22. Sealing Premises of Deceased

- (a) If a body or body part that is subject to an inquest under Article 49.04 of this code is found on premises that were under the sole control of the deceased, a justice of the peace or other person authorized under this subchapter to conduct an inquest may direct that the premises be locked and sealed to prohibit entrance by any person other than a peace officer conducting an investigation of the death.
- (b) Rent, utility charges, taxes, and all other reasonable expenses accruing against the property of the deceased during the time the premises of the deceased are locked and sealed under this article may be charged against the estate of the deceased.
- (c) A person other than a peace officer commits an offense if the person tampers with or removes a lock or seal placed on premises under this article.
- (d) An offense under this article is a Class B misdemeanor.

Art. 49.23. Office of Death Investigator

- (a) The commissioners court of a county may establish an office of death investigator and employ one or more death investigators to provide assistance to those persons in the county who conduct inquests. A death investigator employed under this article is entitled to receive compensation from the county in an amount set by the commissioners court. A death investigator serves at the will of the commissioners court and on terms and conditions set by the commissioners court.
- (b) To be eligible for employment as a death investigator, a person must have experience or training in investigative procedures concerning the circumstances, manner, and cause of the death of a deceased person.
- (c) At the request of and under the supervision of a justice of the peace or other person conducting an inquest, a death investigator may assist the person conducting the inquest to investigate the time, place, and manner of death and lock and seal the premises of the deceased. A death investigator who assists in an inquest under this subsection shall make a complete report of the death investigator's activities, findings, and conclusions to the justice of the peace or other person conducting the inquest not later than eight hours after the death investigator completes the investigation.

Art. 49.24. Notification and Report of Death of Resident of Institution

- (a) A superintendent or general manager of an institution who is required by Article 49.04 to report to a justice of the peace the death of an individual under the care, custody, or control of or residing in the institution shall:
 - (1) notify the office of the attorney general of the individual's death within 24 hours of the death; and
 - (2) prepare and submit to the office of the attorney general a report containing all facts relevant to the individual's death within 72 hours of the death.
- (b) The superintendent or general manager of the institution shall make a good faith effort to obtain all facts relevant to an individual's death and to include those facts in the report submitted under Subsection (a)(2).
- (c) The office of the attorney general may investigate each death reported to the office by an institution that receives payments through the medical assistance program under Chapter 32, Human Resources Code.
- (d) Except as provided by Subsection (e), the office of the attorney general shall make a report submitted under Subsection (a)(2) available to any interested person who submits a written request for access to the report.
- (e) The office of the attorney general may deny a person access to a report or a portion of a report filed under Subsection (a)(2) if the office determines that the report or a portion of the report is:
 - (1) privileged from discovery; or
 - (2) exempt from required public disclosure under Chapter 552, Government Code.
- (f) This article does not relieve a superintendent or general manager of an institution of the duty of making any other notification or report of an individual's death as required by law.
- (g) For the purposes of this article, the definition of "institution" excludes hospitals.

SUBCHAPTER B. DUTIES PERFORMED BY MEDICAL EXAMINERS

Art. 49.25. Medical Examiners

Office Authorized

Sec. 1. Subject to the provisions of this Act, the Commissioners Court of any county having a population of more than one million and not having a reputable medical school as defined in Articles 4501 and 4503, Revised Civil Statutes of Texas, shall establish and maintain the office of medical examiner, and the Commissioners Court of any county may establish and provide for the maintenance of the office of medical examiner. Population shall be according to the last preceding federal census.

Multi-county District; Joint Office

Sec. 1-a.

- (a) The commissioners courts of two or more counties may enter into an agreement to create a medical examiners district and to jointly operate and maintain the office of medical examiner of the district. The district must include the entire area of all counties involved. The counties within the district must, when taken together, form a continuous area.
- (b) There may be only one medical examiner in a medical examiners district, although he may employ, within the district, necessary staff personnel. When a county becomes a part of a medical examiners district, the effect is the same within the county as if the office of medical examiner had been established in that county alone. The district medical examiner has all the powers and duties within the district that a medical examiner who serves in a single county has within that county.
- (c) The commissioners court of any county which has become a part of a medical examiners district may withdraw the county from the district, but twelve months' notice of withdrawal must be given to the commissioners courts of all other counties in the district.

Appointments and Qualifications

Sec. 2. The commissioners court shall appoint the medical examiner, who shall serve at the pleasure of the commissioners court. No person shall be appointed medical examiner unless he is a physician licensed by the State Board of Medical Examiners. To the greatest extent possible, the medical examiner shall be appointed from persons having training and experience in pathology, toxicology, histology and other medico-legal sciences. The medical examiner shall devote so much of his time and energy as is necessary in the performance of the duties conferred by this Article.

Assistants

Sec. 3. The medical examiner may, subject to the approval of the commissioners court, employ such deputy examiners, scientific experts, trained technicians, officers and employees as may be necessary to the proper performance of the duties imposed by this Article upon the medical examiner.

Salaries

Sec. 4. The commissioners court shall establish and pay the salaries and compensations of the medical examiner and his staff.

Offices

Sec. 5. The commissioners court shall provide the medical examiner and his staff with adequate office space and shall provide laboratory facilities or make arrangements for the use of existing laboratory facilities in the county, if so requested by the medical examiner.

Death Investigations

Sec. 6.

- (a) Any medical examiner, or his duly authorized deputy, shall be authorized, and it shall be his duty, to hold inquests with or without a jury within his county, in the following cases:
 - (1) When a person shall die within twenty-four hours after admission to a hospital or institution or in prison or in jail;
 - (2) When any person is killed; or from any cause dies an unnatural death, except under sentence of the law; or dies in the absence of one or more good witnesses;
 - (3) When the body or a body part of a person is found, the cause or circumstances of death are unknown, and:
 - (A) the person is identified; or
 - (B) the person is unidentified;
 - (4) When the circumstances of the death of any person are such as to lead to suspicion that he came to his death by unlawful means;
 - (5) When any person commits suicide, or the circumstances of his death are such as to lead to suspicion that he committed suicide;
 - (6) When a person dies without having been attended by a duly licensed and practicing physician, and the local health officer or registrar required to report the cause of death under Section 193.005, Health and Safety Code, does not know the cause of death. When the local health officer or registrar of vital statistics whose duty it is to certify the cause of death does not know the cause of death, he shall so notify the medical examiner of the county in which the death occurred and request an inquest;
 - (7) When the person is a child who is younger than six years of age and the death is reported under Chapter 264, Family Code; and
 - (8) When a person dies who has been attended immediately preceding his death by a duly licensed and practicing physician or physicians, and such physician or physicians are not certain as to the cause of death and are unable to certify with certainty the cause of death as required by Section 193.004, Health and Safety Code. In case of such uncertainty the attending physician or physicians, or the superintendent or general manager of the hospital or institution in which the deceased shall have died, shall so report to the medical examiner of the county in which the death occurred, and request an inquest.
- (b) The inquests authorized and required by this Article shall be held by the medical examiner of the county in which the death occurred.
- (c) In making such investigations and holding such inquests, the medical examiner or an authorized deputy may administer oaths and take affidavits. In the absence of next of kin or legal representatives of the deceased, the medical examiner or authorized deputy shall take charge of the body and all property found with it.

Organ Transplant Donors; Notice; Inquests

Sec. 6a.

- (a) When death occurs to an individual designated a prospective organ donor for transplantation by a licensed physician under circumstances requiring the medical examiner of the county in which death occurred, or the medical examiner's authorized deputy, to hold an inquest, the medical examiner, or a member of his staff will be so notified by the administrative head of the facility in which the transplantation is to be performed.
- (b) When notified pursuant to Subsection (a) of this Section, the medical examiner or the medical examiner's deputy shall perform an inquest on the deceased prospective organ donor.

Reports of Death

Sec. 7.

- (a) Any police officer, superintendent or general manager of an institution, physician, or private citizen who shall become aware of a death under any of the circumstances set out in Section 6(a) of this Article, shall immediately report such death to the office of the medical examiner or to the city or county police departments; any such report to a city or county police department shall be immediately transmitted to the office of the medical examiner.
- (b) A person investigating a death described by Subdivision 3(B) of Section 6(a) shall report the death to the missing children and missing persons information clearinghouse of the Department of Public Safety and the national crime information center not later than the 10th working day after the date the investigation began.
- (c) A superintendent or general manager of an institution who reports a death under Subsection (a) must comply with the notice and reporting requirements of Article 49.24. The office of the attorney general has the same powers and duties provided the office under that article regarding the dissemination and investigation of the report.

Removal of Bodies

Sec. 8. When any death under circumstances set out in Section 6 shall have occurred, the body shall not be disturbed or removed from the position in which it is found by any person without authorization from the medical examiner or authorized deputy, except for the purpose of preserving such body from loss or destruction or maintaining the flow of traffic on a highway, railroad or airport.

Autopsy

Sec. 9.

- (a) If the cause of death shall be determined beyond a reasonable doubt as a result of the investigation, the medical examiner shall file a report thereof setting forth specifically the cause of death with the district attorney or criminal district attorney, or in a county in which there is no district attorney or criminal district attorney with the county attorney, of the county in which the death occurred. If in the opinion of the medical examiner an autopsy is necessary, or if such is requested by the district attorney or criminal district attorney, or county attorney where there is no district attorney or criminal district attorney, the autopsy shall be immediately performed by the medical examiner or a duly authorized deputy. In those cases where a complete autopsy is deemed unnecessary by the medical examiner to ascertain the cause of death, the medical examiner may perform a limited autopsy involving the taking of blood samples or any other samples of body fluids, tissues or organs, in order to ascertain the cause of death or whether a crime has been committed. In the case of a body of a human being whose identity is unknown, the medical examiner may authorize such investigative and laboratory tests and processes as are required to determine

its identity as well as the cause of death. In performing an autopsy the medical examiner or authorized deputy may use the facilities of any city or county hospital within the county or such other facilities as are made available. Upon completion of the autopsy, the medical examiner shall file a report setting forth the findings in detail with the office of the district attorney or criminal district attorney of the county, or if there is no district attorney or criminal district attorney, with the county attorney of the county.

- (b) A medical examination on an unidentified person shall include the following information to enable a timely and accurate identification of the person:
 - (1) all available fingerprints and palm prints;
 - (2) dental charts and radiographs (X-rays) of the person's teeth;
 - (3) frontal and lateral facial photographs with scale indicated;
 - (4) notation and photographs, with scale indicated, of a significant scar, mark, tattoo, or item of clothing or other personal effect found with or near the body;
 - (5) notation of antemortem medical conditions;
 - (6) notation of observations pertinent to the estimation of time of death; and
 - (7) precise documentation of the location of burial of the remains.
- (c) A medical examination on an unidentified person may include the following information to enable a timely and accurate identification of the person:
 - (1) full body radiographs (X-rays); and
 - (2) hair specimens with roots.

Disinterments and Cremations

Sec. 10. When a body upon which an inquest ought to have been held has been interred, the medical examiner may cause it to be disinterred for the purpose of holding such inquest.

Before any body, upon which an inquest is authorized by the provisions of this Article, can be lawfully cremated, an autopsy shall be performed thereon as provided in this Article, or a certificate that no autopsy was necessary shall be furnished by the medical examiner. Before any dead body can be lawfully cremated, the owner or operator of the crematory shall demand and be furnished with a certificate, signed by the medical examiner of the county in which the death occurred showing that an autopsy was performed on said body or that no autopsy thereon was necessary. It shall be the duty of the medical examiner to determine whether or not, from all the circumstances surrounding the death, an autopsy is necessary prior to issuing a certificate under the provisions of this section. No autopsy shall be required by the medical examiner as a prerequisite to cremation in case death is caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox. All certificates furnished to the owner or operator of a crematory by any medical examiner, under the terms of this Article, shall be preserved by such owner or operator of such crematory for a period of two years from the date of the cremation of said body. A medical examiner is not required to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.

Waiting Period Between Death and Cremation

Sec. 10a. The body of a deceased person shall not be cremated within 48 hours after the time of death as indicated on the regular death certificate, unless the death certificate indicates death was caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox, or unless the time requirement is waived in writing by the county medical examiner or, in counties not having a county medical examiner, a justice of the peace. In a public health disaster, the commissioner of public health may designate other communicable diseases for which cremation within 48 hours of the time of death is authorized.

Disposal of Unidentified Body

Sec. 10b. If the body of a deceased person is unidentified, a person may not cremate or direct the cremation of the body under this article. If the body is buried, the investigating agency responsible for the burial shall record and maintain for not less than 10 years all information pertaining to the body and the location of burial.

Records

Sec. 11.

- (a) The medical examiner shall keep full and complete records properly indexed, giving the name if known of every person whose death is investigated, the place where the body was found, the date, the cause and manner of death, and shall issue a death certificate. The full report and detailed findings of the autopsy, if any, shall be a part of the record. Copies of all records shall promptly be delivered to the proper district, county, or criminal district attorney in any case where further investigation is advisable. The records may not be withheld, subject to a discretionary exception under Chapter 552, Government Code, except that a photograph or x-ray of a body taken during an autopsy is excepted from required public disclosure in accordance with Chapter 552, Government Code, but is subject to disclosure:
 - (1) under a subpoena or authority of other law; or
 - (2) if the photograph or x-ray is of the body of a person who died while in the custody of law enforcement.
- (b) Under the exception to public disclosure provided by Subsection (a), a governmental body as defined by Section 552.003, Government Code, may withhold a photograph or x-ray described by Subsection (a) without requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code. This subsection does not affect the required disclosure of a photograph or x-ray under Subsection (a)(1) or (2).

Transfer of Duties of Justice of Peace

Sec. 12. When the commissioners court of any county shall establish the office of medical examiner, all powers and duties of justices of the peace in such county relating to the investigation of deaths and inquests shall vest in the office of the medical examiner. Any subsequent General Law pertaining to the duties of justices of the peace in death investigations and inquests shall apply to the medical examiner in such counties as to the extent not inconsistent with this Article, and all laws or parts of laws otherwise in conflict herewith are hereby declared to be inapplicable to this Article.

Use of Forensic Anthropologist

Sec. 13. On discovering the body or body part of a deceased person in the circumstances described by Subdivision 3(B) of Section 6(a), the medical examiner may request the aid of a forensic anthropologist in the examination of the body or body part. The forensic anthropologist must hold a doctoral degree in anthropology with an emphasis in physical anthropology. The forensic anthropologist shall attempt to establish whether the body or body part is of a human or animal, whether evidence of childbirth, injury, or disease exists, and the sex, race, age, stature, and physical anomalies of the body or body part. The forensic anthropologist may also attempt to establish the cause, manner, and time of death.

Penalty

Sec. 14.

- (a) A person commits an offense if the person knowingly violates this article.
- (b) An offense under this section is a Class B misdemeanor.

SUBCHAPTER C. INFORMED CONSENT FOR POSTMORTEM EXAMINATION OR AUTOPSY

Art. 49.31. Applicability

This subchapter does not apply to an autopsy that:

- (1) is ordered by the Texas Department of Criminal Justice or an authorized official of the department in accordance with Section 501.055, Government Code; or
- (2) a justice of the peace or medical examiner determines is required under this chapter or other law.

Art. 49.32. Consent to Postmortem Examination or Autopsy

- (a) Except as provided by Subsection (b) of this article, a physician may not perform, or assist in the performance of, a postmortem examination or autopsy on the body of a deceased person unless the physician obtains the written informed consent of a person authorized to provide consent under Article 49.33 of this code. The consent must be provided on the form prescribed under Article 49.34 of this code.
- (b) If, after due diligence, a physician is unable to identify or contact a person authorized to give consent under Article 49.33 of this code, the physician may, as authorized by a medical examiner, justice of the peace, or county judge, as appropriate, perform a postmortem examination or autopsy on the body of a deceased person not less than 24 hours and not more than 48 hours from the time of the decedent's death or the time the physician or other person took possession of the body.

Art. 49.33. Persons Authorized to Consent to Postmortem Examination or Autopsy

- (a) Subject to Subsections (b) and (c) of this article, consent for a postmortem examination or autopsy may be given by any member of the following classes of persons who is reasonably available, in the order of priority listed:
 - (1) the spouse of the decedent;
 - (2) the person acting as guardian of the person of the decedent at the time of death or the executor or administrator of the decedent's estate;
 - (3) the adult children of the decedent;
 - (4) the parents of the decedent; and
 - (5) the adult siblings of the decedent.
- (b) If there is more than one member of a class listed in Subsection (a)(2), (3), (4), or (5) of this article entitled to give consent to a postmortem examination or autopsy, consent may be given by a member of the class unless another member of the class files an objection with the physician, medical examiner, justice of the peace, or county judge. If an objection is filed, the consent may be given only by a majority of the members of the class who are reasonably available.
- (c) A person may not give consent under this article if, at the time of the decedent's death, a person in a class granted higher priority under Subsection (a) of this article is reasonably available to give consent or to file an objection to a postmortem examination or autopsy.

Art. 49.34. Postmortem Examination or Autopsy Consent Form

The commissioner of state health services, in consultation with the Texas Medical Board, shall prescribe a standard written consent form for a postmortem examination or autopsy. The form must:

- (1) include the name of the hospital or other institution and the department that will perform the examination or autopsy;
- (2) include a statement that the removal from the deceased person's body and retention by the physician of organs, fluids, prosthetic devices, or tissue may be required for purposes of comprehensive evaluation or accurate determination of a cause of death;
- (3) provide the family of the deceased person with an opportunity to place restrictions or special limitations on the examination or autopsy;
- (4) include a separate section regarding the disposition of organs, fluids, prosthetic devices, or tissue after the examination or autopsy, including a prioritized list of the persons authorized to control that disposition, as provided by Chapter 692A, Health and Safety Code;
- (5) provide for documented and witnessed consent;
- (6) allow authorization for the release of human remains to a funeral home or individual designated by the person giving consent for the postmortem examination or autopsy;
- (7) include information regarding the rights described by Article 49.35 of this code;
- (8) list the circumstances under which a medical examiner is required by law to conduct an investigation, inquest, or autopsy under Article 49.25 of this code;
- (9) include a statement that the form is required by state law; and
- (10) be written in plain language designed to be easily understood by the average person.

Art. 49.35. Right to Nonaffiliated Physician

- (a) A person authorized to consent to a postmortem examination or autopsy under Article 49.33 of this code may request that a physician who is not affiliated with the hospital or other institution where the deceased person died:
 - (1) perform the postmortem examination or autopsy at another hospital or institution; or
 - (2) review the postmortem examination or autopsy conducted by a physician affiliated with the hospital or other institution where the deceased person died.
- (b) A representative of the hospital or other institution shall inform the person of the person's right to request the performance or review of a postmortem examination or autopsy by a nonaffiliated physician under Subsection (a) before the person consents to the postmortem examination or autopsy.
- (c) A person requesting a nonaffiliated physician to perform or review a postmortem examination or autopsy shall bear the additional costs incurred as a result of the nonaffiliated physician's performance or review of the examination or autopsy under Subsection (a) of this article.